

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF ISSAQUAH**

In the Matter of the Application of	)	No. PP16-00003
	)	
	)	
<b>David Main, on behalf of</b>	)	Sammamish 6 Preliminary Plat
<b>Creative Home Partners, LLC</b>	)	
	)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Preliminary Plat</u>	)	AND DECISION

**SUMMARY OF DECISION**

The request for a preliminary short plat to subdivide 41,270 square feet into six residential lots at approximately 49XX 194<sup>th</sup> Avenue SE is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development.

**SUMMARY OF RECORD**

Meeting Date:

The Hearing Examiner held an open record hearing on the request on August 31, 2016.

Testimony:

The following individuals presented testimony under oath at the meeting:

Peter Rosen, City Senior Environmental Planner  
Denise Pirolo, City Development Services Senior Engineer  
Hans Korge, for the Applicant  
Peter Burr  
Jim Leavitt  
Daniel Chun  
Sepideh Makouei

Attorney Vicki Orrico represented the Applicant.

Exhibits:

The following exhibits were admitted into the record:

1. Land Use Permit Application, dated April 19, 2016; with Affidavit of Ownership and Affidavit of Agent Authority
2. Vicinity map, printed March 9, 2016
3. Letter from Hans Korge to City of Issaquah, dated April 19, 2016

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4. Preliminary Plat Plans, dated August 18, 2016
  - a. Existing Condition (Sheet 1 of 5)
  - b. Existing Condition (Sheet 2 of 5)
  - c. Site Plan (Sheet 3 of 5)
  - d. Preliminary Utility and Lighting Plan (Sheet 4 of 5)
  - e. Preliminary Utility and Lighting Plan (Sheet 5 of 5)
  - f. Hazard Tree Removal Exhibit (Sheet 1 of 1)
  - g. Tree Preservation Exhibit (Sheet 1 of 1)
  - h. Preliminary Landscaping/Street Tree Plan (Sheet 1 of 1)
  - i. Pedestrian Exhibit (Sheet 1 of 1)
  - j. Intersection Only (Sheet 1 of 1)
  - k. Sight Distance Exhibit (Sheet 1 of 1)
5. Topographic and Boundary Survey, revised March 8, 2016
  - a. Added Roadway easements (Sheet 1 of 2)
  - b. Added Roadway easements (Sheet 1 of 2)
  - c. Added Roadway easements (Sheet 2 of 2)
6. Geotechnical Engineering Study, Geotech Consultants, Inc., dated March 24, 2016
7. Arborist Reports:
  - a. Arborist Report, A.B.C. Consulting Arborists, LLC, dated August 9, 2016
  - b. Arborist Report, A.B.C. Consulting Arborists, LLC, dated April 12, 2016
8. Arborist Letter on gravel pathway, A.B.C. Consulting Arborists, LLC, dated July 19, 2016
9. Technical Information Report, Daley-Morrow-Poblete, Inc., revised July 11, 2016
10. Transportation Concurrency Certificate Application, undated
11. Bald Eagle and Pileated Woodpecker Habitat Assessment, Sewall Wetland Consulting, Inc., dated April 27, 2016
12. Public notice:
  - a. Affidavit of Service of Mailing, dated March 11, 2016; with Notice of Neighborhood Meeting, Vicinity Map, Site Plan, and mailing labels
  - b. Affidavit of Sign Installation, undated
  - c. Affidavit of Service of Mailing, dated May 23, 2016; with Notice of Application, Vicinity Map, Site Plan, and mailing labels
  - d. Legal Notice for Publication in the *Issaquah Press*, dated June 30, 2016
  - e. Affidavit of Service of Mailing, dated June 30, 2016; with Mitigated Determination of Nonsignificance, with email from Stacy Cockran to recipients regarding SEPA determination
  - f. Legal Notice for Publication in *Issaquah Sammamish Reporter*, August 19, 2019
  - g. Affidavit of Service of Mailing, dated August 18, 2016, with Notice of Public Hearing, Vicinity Map, Site Plan, mailing labels, and Parties of Record list
13. Availability Certificate Request/Certification, City of Bellevue, dated April 21, 2016
14. Environmental Checklist, dated April 18, 2016
15. Mitigated Determination of Nonsignificance, dated June 30, 2016
16. Pedestrian Exhibit (Sheet 1 of 1), dated April 27, 2016

17. Intersection Only (Sheet 1 of 1), dated April 27, 2016
18. Public comments:
  - a. Email from Bruce Watterson to Peter Rosen, dated March 3, 016
  - b. Email from Gary Goldsberry to Peter Rosen, dated March 4, 2016
  - c. Letter from Dan and Peggy Millburn to Peter Rosen, dated March 4, 2016
  - d. Email from Jeremy Jensen to Peter Rosen, dated March 7, 2016
  - e. Email from John Girt to Peter Rosen, dated March 17, 2016
  - f. Email from Caleb Tarleton to Peter Rosen, dated March 20, 2016
  - g. Email from Carmen Hart Jensen to Denise Pirolo, dated April 30, 2016, with email string
  - h. Email from Carmen Hart Jensen to Peter Rosen, dated June 2, 2016
  - i. Letter from Peter and Sandra Burr to City of Issaquah, dated May 29, 2016
19. Staff report

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony at the open record hearing and admitted exhibits:

### **FINDINGS**

#### Application and Notice

1. David Main, on behalf of Creative Homes Partners, LLC (Applicant), requests a preliminary short plat to subdivide 41,270 square feet (0.95 acres) into six residential lots. The property is located at approximately 49XX 194<sup>th</sup> Avenue SE.<sup>1</sup> *Exhibit 1; Exhibit 4; Exhibit 5; Exhibit 16; Exhibit 17; Exhibit 19, Staff Report, page 1.*
2. City Senior Environmental Planner Peter Rosen testified that the City of Issaquah (City) determined the application was complete on April 19, 2016. The City mailed notice of the neighborhood meeting to the adjacent property or parties of record on March 11, 2016. A&M Home partners, LLC, the property owner, posted a notice of proposed land use action on the property on May 18, 2016.<sup>2</sup> The City mailed notice of the application to the adjacent property or parties of record on May 20, 2016. The City received written public comments on the application about traffic concerns and intersection safety, the presence of eagles, and safe pedestrian access, sewer easements, and stormwater runoff. The City mailed notice of the public hearing to adjacent property or parties of record on August 18, 2016, and the next day published notice in the *Issaquah Sammamish Reporter*. *Exhibit 12; Exhibit 18; Exhibit 19, Staff Report, page 2; Testimony of Mr. Rosen.*

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<sup>1</sup> The subject property is identified by Tax Assessor Parcel No. 192406-9082. The application includes a legal description of the property. *Exhibit 1; Exhibit 19, Staff Report, page 1.*

<sup>2</sup> The affidavit of sign installation is not dated. It was subscribed and sworn on May 18, 2016. *Exhibit 12.*

State Environmental Policy Act (SEPA)

3. The City acted as lead agency and analyzed the environmental impacts of the proposed project as required by SEPA, Chapter 43.21C RCW. The City reviewed the Applicant's environmental checklist and other available information, and determined that, with two conditions, the proposed project would not have a probable significant adverse impact on the environment. The City issued a Mitigated Determination of Nonsignificance (MDNS) on June 30, 2016. Conditions include City Development Services Department approval of 194<sup>th</sup> Avenue SE and 193<sup>rd</sup> Avenue SE<sup>3</sup> intersection improvements prior to recording the preliminary plat and assessment of mitigation fees with issuance of building permits. The City mailed notice of the SEPA determination to adjacent property or parties of record and published notice in the *Issaquah Press* on June 30, 2016. The Applicant's Environmental Checklist identified eagles and songbirds as having been observed or as known to be on or near the site. Mr. Rosen testified that the City did not receive any comments and the MDNS was not appealed. *Exhibit 12; Exhibit 14; Exhibit 15; Exhibit 19, Staff Report, pages 2 and 6; Testimony of Mr. Rosen.*

Comprehensive Plan, Zoning, and Surrounding Property

4. The property is located in the Greenwood Point subarea. City identified the property as designated Low Density Residential (LDR) by the City Comprehensive Plan. The City identified the purpose and intent of the LDR designation is:
- to provide a variety of housing types and densities within a full range of urban services. The primary use in this designation is housing. The appropriate density of the individual residential zoning districts is based on the availability of urban services and the proximity to local streets, arterials and pedestrian access. Those areas with critical areas shall be appropriate for low density residential, with the intent to protect environmentally critical areas from impacts associated with more intensive development. These environmentally critical areas are valued as a community resource, both for conservation purposes and public enjoyment; provided, that the environmentally critical areas are protected, low density single family residential use may be appropriate.
- Exhibit 19, Staff Report, pages 1 and 3.*
5. The property is located within the City's Single-Family Small Lot (SF-SL) zoning district.<sup>4</sup> The primary purpose of residential districts is to provide a variety of housing types and densities served by or near urban services. The primary use in these districts is

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<sup>3</sup> Because the SEPA mitigation measures were not appealed, they are taken verbatim from the MDNS. The reference to 193<sup>rd</sup> Avenue SE here, and in the preliminary plat Condition 1, is assumed to mean 193<sup>rd</sup> Place SE. *Exhibit 15.*

<sup>4</sup> The property was annexed into the City in 2006. The City adopted the zoning designation most comparable to the King County zoning, consistent with IMC 18.06.060. The King County zoning at the time of annexation was R-6 (6 dwelling units/acre). The City zoned the entire Greenwood Point/South Cove area Single-Family Small Lot (SF-SL) with the annexation. *Exhibit 19, Staff Report, page 4.*

housing. The purpose of the SF-SL district is to provide for single family neighborhoods which are in close proximity to low density multifamily neighborhoods and urban services. Appropriate areas for this district include those neighborhoods which are currently medium density single family or would be suitable because of the compatibility to surrounding densities and proximity to urban services. Permitted uses include single family homes, assisted living facilities and senior housing. The following objectives also apply to this district: establish and preserve residential neighborhoods; encourage the reuse and remodeling, rather than demolition, of historic buildings to provide alternative housing opportunities; and provide opportunities for single family residential development in areas served by public and urban services. *Issaquah Municipal Code (IMC) 18.06.100, -.D.*

Single-family residential development at a maximum density of 7.26 lots per acre is allowed within the SF-SL zoning district. The minimum lot size for the SF-SL zone is 6,000 square feet. A 10-foot front setback; a six-foot side setback, and a 20-foot rear setback are required. The SF-SL zone allows a base building height of 30 feet and 50 percent impervious surface. *IMC Table 18.07.360.* Surrounding properties are also zoned SR-SL with single-family residences. *Exhibit 19, Staff Report, pages 2 and 4.*

#### Existing Conditions

6. The rectangular site is located immediately east of 4920 194<sup>th</sup> Avenue SE, a private road. The site contains pasture grass and large trees. The site generally slopes towards Lake Sammamish, approximately 260 feet to the east, with no steep slopes (one to five percent) on or near the site. The site is underlain with Everett and Kitsap Series Soils. Mr. Rosen testified that 194<sup>th</sup> Avenue SE is currently a driveway that serves 12 residences. *Exhibit 9; Exhibit 19, Staff Report, page 2; Testimony of Mr. Rosen.*

#### Proposed Development

7. The Applicant proposes to subdivide the property into six single-family residential lots. The proposed density would be 6.87 lots per acre with lot sizes between 6,015 and 6,425 square feet. Lot setbacks would comply with the SF-SL requirements. Existing and new impervious areas are depicted on the Preliminary Utility and Lighting Plan. The City would review the impervious surface area and building height at the time of building permit applications. *Exhibit 4.d; Exhibit 19, Staff Report, pages 1, 4, and 5.*

#### Critical Areas

8. Geotech Consultants, Inc., prepared a Geotechnical Engineering Study (GES) for the Applicant, dated March 24, 2016. The GES determined that the soils are suitable to support the loads associated with single-family homes, with recommendations to excavate all footing areas through the existing fill and topsoil; construct all footings as continuous foundations on at least 12 inches of clean crushed rock fill; and reinforce the perimeter footings and interior primary bearing footings. The site soils have a low to moderate susceptibility to liquefaction. The GES includes recommendations to mitigate

the potential for foundation collapse in the event of liquefaction caused by a large earthquake. The GES also includes recommendations for conventional foundations, permanent foundation and retaining walls, slabs-on-grade, drainage considerations, and general earthwork and structural fills. *Exhibit 6.*

9. Sewall Wetland Consulting, Inc. (Sewall), prepared a Bald Eagle and Pileated Woodpecker Habitat Assessment for the Applicant, dated April 27, 2016. No records of rare plants or high quality ecosystems in the vicinity of the site were found. The site contains no mapped or known eagle nests, perches, or use of the site by pileated woodpeckers. The closest identified eagle nest is 1.3 miles northeast of the site across Lake Sammamish. Sewall visited the site on April 11, 2016. No evidence of any bald eagles or pileated woodpeckers, or eagle nests or use of the site (tree cavities) by pileated woodpeckers was observed. Ms. Makouei testified that she lives on 193<sup>rd</sup> Place SE and noted that there are pileated woodpeckers and eagles in the area, but was not aware of any nesting sites on the subject property. *Exhibit 11; Exhibit 19, Staff Report, pages 5 and 6; Testimony of Ms. Makouei and Mr. Rosen.*

#### Stormwater

10. Daley-Morrow-Poblete, Inc., prepared a Technical Information Report for the Applicant, revised July 11, 2016. The project site contains a single drainage basin and is generally sloping to the east. The site receives negligible upstream discharge from two adjacent properties. The property sheet flows generally towards the east side of the property and towards Lake Sammamish. A small portion of the on-site flow also crosses the exiting gravel portion of 194<sup>th</sup> Avenue SE. Discharge from the property flows onto adjacent lots or is captured by yard drains on the north side of 194<sup>th</sup> Avenue SE. These yard drains enter a tight-line system that discharges directly to Lake Sammamish approximately 250 feet to the east. The City determined that because the project would continue to drain to Lake Sammamish the project is exempt from stormwater flow control. The Applicant would be required to meet the standards of the 2009 King County Surface Water Design Manual with the 2011 City of Issaquah Addendum, as well as the water quality standards for Sensitive Lake Protection Areas. Stormwater would be collected and treated in an on-site filter system located at the eastern terminus of 194<sup>th</sup> Avenue SE. The flow would then be discharged into Lake Sammamish at the same location as the existing yard drain discharge. An existing 4-inch PVC discharge pipe would be replaced with a 12-inch pipe to accommodate the increased volume. The proposed stormwater pipe and discharge would require an easement from the adjacent property owner. The Applicant submitted a topographic and boundary survey, dated August 20, 2015, identifying easements. Hans Korge, DMP Engineering,<sup>5</sup> testified that the Applicant has an agreement for a stormwater access easement along the south property line. Mr. Rosen testified that the outfall would require a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife, as well as a Shoreline Substantial Development Permit (SSDP). Any HPA

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<sup>5</sup> The Applicant designated Mr. Korge as the authorized agent for this application. *Exhibit 1.*

or SSDP permit conditions would also apply to plat development. *Exhibit 5.a; Exhibit 9; Exhibit 19, Staff Report, pages 2 and 7; Testimony of Mr. Korve and Mr. Rosen.*

11. Peter Burr testified that he lives in the second house as you enter 194<sup>th</sup> Avenue SE. He testified regarding his sewer line, and noted a concern that any development may damage it. Mr. Korve responded for the Applicant that the proposed sewer tie-in would be at a manhole in 193<sup>rd</sup> Place SE, which is downstream of Mr. Burr's property. Jim Leavitt testified that he lives directly to the north of the proposed plat on 194<sup>th</sup> Avenue SE. He testified and asked about stormwater impacts. Mr. Korve responded that Exhibit 4.d shows all stormwater on-site would be captured and discharged to Lake Sammamish. In addition, roof and footer drains would capture water so the amount of water would decrease. The Applicant would also use individual infiltration systems to the greatest extent possible. City Senior Engineer Denise Pirolo, P.E., testified for the City that the Applicant must adhere to the 2009 King County stormwater manual with the 2011 Issaquah revisions; that there would be no increase in rate of flow; and that stormwater would be detained and treated for water quality purposes. Daniel Chun testified that he has waterfront property adjacent to the proposed subdivision. He asked who would be responsible for maintaining the stormwater facilities. Mr. Korve testified that the stormwater facilities would be maintained by the subdivision homeowners. *Exhibit 3; Exhibit 4.d; Testimony of Mr. Burr, Mr. Leavitt, Mr. Korve, Ms. Pirolo, and Mr. Chun*

#### Access, Frontage, and Parking

12. An improved portion of 194<sup>th</sup> Avenue SE and a private access tract would provide access to the new lots. The Applicant would improve 194<sup>th</sup> Avenue SE to a 20-foot pavement width and provide a pedestrian walkway along the property frontage, as well as extend those improvements to the intersection with 193<sup>rd</sup> Place SE. Ms. Pirolo testified that the frontage improvements would include curb, gutter, and a sidewalk. The City determined that the existing 194<sup>th</sup> Avenue SE and 193<sup>rd</sup> Place SE intersection has operational and safety issues, as well as being in close proximity to the intersection with West Lake Sammamish Parkway SE. The Applicant would reconfigure and improve the 194<sup>th</sup>/193<sup>rd</sup> intersection by moving it further northeast, away from the intersection with West Lake Sammamish Parkway SE. The Applicant provided a sight distance exhibit depicting the proposed intersection. A SEPA condition requires City Development Services Department review and approval of intersection improvement details prior to preliminary plat recording. The proposed five-foot wide gravel path on the north side of 194<sup>th</sup> Avenue SE would allow the retention of 12 of 16 trees. No parking would be allowed on the internal streets or along 194<sup>th</sup> Avenue SE. The Applicant would provide two-car garages per residence, with additional parking in driveways. *Exhibits 4.i, -j, -k; Exhibit 9; Exhibit 17; Exhibit 19, Staff Report, pages 5 and 6; Testimony of Ms. Pirolo.*
13. Mr. Chun testified and asked who would be responsible for maintaining the gravel pathway and who would monitor parking on the road. Mr. Korve responded that the street curb would be painted red and noted as a fire lane. Ms. Pirolo responded that the road must be signed with "No Parking" signs and that police would authorize towing if

the road was blocked. Sepideh Makouei testified and asked if the intersection widening would affect per property. Mr. Korve responded that the intersection project would not intrude onto any private property, only to existing access easements. *Testimony of Mr. Chun, Mr. Korve, Ms. Pirolo, and Ms. Makouei.*

#### Traffic

14. Mr. Korve submitted a Transportation Concurrency Certificate Application with Trip Calculator. The application estimates one trip per housing unit for a total of six trips. The City determined that this would not result in significant adverse impacts on the local streets. Traffic impacts would be mitigated through payment of traffic mitigation fees. *Exhibit 10; Exhibit 19, Staff Report, page 6.*

#### Tree Retention and Landscaping

15. Subdivisions in the SF-SL zone must retain a minimum of 30 percent of the total caliper of existing significant trees outside of critical areas and buffers. Hazard trees<sup>6</sup> are exempt from tree retention requirements if a certified arborist prepares a tree risk assessment and determines the risk of failure is high. *IMC 18.12.141.D.9, -.E.* A.B.C Consulting Arborists, LLC, (A.B.C.) prepared a level 2 risk assessment for the Applicant on 29 trees, dated April 12, 2016, and revised on August 9, 2016. The revised risk assessment identified 68 trees (on and off-site) of which 38 trees are viable (27 in good health and 11 viable trees with defects). The revised risk assessment identified 30 trees recommended for removal as non-viable/hazardous, including one of 16 off-site cottonwoods along 194<sup>th</sup> Ave SE. The City identified 52 significant trees,<sup>7</sup> with 29 found to be non-viable, dead, or high risk trees.<sup>8</sup> The remaining viable 23 significant trees total 749 diameter inches. Five of the 23 viable significant trees would be preserved with a total of 236 caliper inches, which is 31.5 percent of total diameter inches of viable significant on-site trees. The retained trees are located on the back of proposed Lot 2. The Applicant would provide approved tree protection measures prior to construction or clearing/grading activities. All clearing, grading, and storage of materials would take place outside the critical root zone of the retained significant trees. The Applicant provided a preliminary

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<sup>6</sup> IMC 18.12.030 provides:

A hazardous tree is one that is so affected by a significant structural defect or disease or in permanent decline that falling or failure appears imminent, and that otherwise currently poses a threat to life or property and the risk of failure per the most recent adopted ISA standard tree risk assessment evaluation must be rated greater than or equal to "high" as measured on the tree risk assessment form.

<sup>7</sup> IMC 18.12.030 provides:

Tree, significant: A tree at least six (6) inches or greater at d.b.h. or an alder or cottonwood tree eight (8) inches or greater at d.b.h.

<sup>8</sup> The A.B.C. risk assessment provided decay testing on 29 trees identified as non-viable/hazard trees from a previous level 1 basic risk assessment/post construction tree viability report, dated August 22, 2015. The August 9, 2016, level 2 risk assessment lists 30 trees as non-viable/hazardous, including one off-site cottonwood. *Exhibit 7.*

landscape plan and street tree plan. Street tree plant selection and landscape details would be further reviewed with construction permits. *Exhibit 4.f and .g; Exhibit 7; Exhibit 8; Exhibit 19, Staff Report, page 5.*

16. A.B.C. also prepared a report on the impacts of a proposed gravel pathway at the base of 16 trees along the north side of 194<sup>th</sup> Avenue SE. A.B.C. determined that if the pathway is installed at the base of the trees, and any material to be removed is done using an airspade (to protect the roots) with laydown of commercial weed matting and overlay with 4 inches of gravel, the proposed gravel path should have no significant negative impact on the trees. As noted above, one hazard cottonwood tree is recommended for removal, while three other trees would be removed at the west end of 194<sup>th</sup> Avenue SE for an intersection improvement. An arborist would review the location and construction details for the gravel pathway and would be on-site to oversee the installation of the pathway. *Exhibit 4.g; Exhibit 8; Exhibit 19, Staff Report, page 9.*
17. Mr. Burr testified and asked about impacts to his front yard and Mr. Jensen's front yard due to 193<sup>rd</sup> Place SE improvements. Mr. Korve responded for the applicant that the vegetation of concern to Mr. Burr is within the easement and not on Mr. Burr's property. *Exhibit 17; Testimony of Mr. Burr and Mr. Korve.*

#### Utilities and Services

18. The City of Bellevue would provide water and sewer utilities. The Applicant submitted sewer and water availability certificates from the City of Bellevue Utilities Department, dated April 21, 2016. The Utilities Department noted that an easement is needed for a side sewer to cross parcel No. 9195700390. The Applicant submitted a topographic and boundary survey, dated August 20, 2015, identifying easements. The City of Bellevue would provide fire protection, but did not provide any comments on the application. The Applicant would pay impact fees for transportation, fire, schools, parks, general government (SEPA), police (SEPA), bicycle/pedestrian facilities (SEPA) at the time for building permit issuance for each residential unit. The proposed subdivision is located in the Issaquah School District. A school bus stop is located at the intersection of 193<sup>rd</sup> Place SE and SE 48<sup>th</sup> Place. The Applicant would provide a pedestrian access route to allow students to walk to the bus stop. The City determined that active recreation areas were not required on-site. Lake Sammamish State Park, which provides diverse recreation opportunities, is located within a mile of the subject property. *Exhibits 4.c, -.i; Exhibit 5.a; Exhibit 13; Exhibit 19, Staff Report, pages 7 and 8.*

#### City Staff Recommendation

19. City staff determined that, with conditions, the proposal would be consistent with the Issaquah Comprehensive Plan, Issaquah Land Use Code, and other application development regulations, including chapter 18.13 IMC (Subdivision Code) and RCW 58.117.110 (Washington State Subdivision Code) and recommended approval of the preliminary plat. *Exhibit 19, Staff Report, pages 4, 8 through 10.*

## CONCLUSIONS

### Jurisdiction

The Hearing Examiner has authority to hear and approve, conditionally approve, or disapprove the preliminary plat request after review of the preliminary plat, the administration's recommendation, testimony, and exhibits submitted at the public hearing. The Hearing Examiner makes the final decision on preliminary subdivisions. *Issaquah Municipal Code (IMC) 18.03.060.B; 18.03.170; 18.04.490.C.1; 18.13.140.A.*

### Criteria for Review

#### Preliminary Plat

Preliminary plat proposals are reviewed through the Modified Level 4 review process and must comply with all the standards and criteria set forth in Chapter 18.13 IMC. *IMC 18.04.480 and 18.04.490.C.1.*

The standards and criteria regarding preliminary plats set forth in Chapter 18.13 IMC are established to promote the orderly and efficient division and re-division of land within the city, to avoid placing undue and unnecessary burdens on both the Applicant and the City, and to promote the public health and general welfare, complying with the provisions of chapter 58.17 RCW. The criteria for review of a preliminary plat are set forth in RCW 58.17.110(2), as follows:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that:

- (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (b) The public use and interest will be served by the platting of such subdivision and dedication.

*RCW 58.17.110(2).*

Prior to any approval of the preliminary plat, all minimum street and utility improvements, or reasonable conditions deemed necessary to fulfill the purpose of the subdivision code, shall be specified by the Hearing Examiner, and the Applicant shall be advised of such. *IMC 18.13.140.B.*

The criteria for review adopted by the Issaquah City Council are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

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### Conclusions Based on Findings

1. **With conditions, appropriate provisions would be made for open spaces, drainage ways, streets, transit stops, potable water supplies, sanitary wastes, parks and recreation, schools and school grounds, and all other relevant facts.** The property is designated Low Density Residential by the City Comprehensive Plan. The LDR designation provides for a variety of housing types and densities. Residential development is allowed within the SF-SL zoning district at a maximum density of 7.26 lots per acre. The proposed development density would be 6.87 lots per acre. The Applicant would control stormwater runoff by collection and treatment in an on-site filter system prior to discharge to Lake Sammamish. The City of Bellevue would provide water and sewer service. The Applicant would provide access to the lots via 194<sup>th</sup> Avenue SE, a private street, with widening to 20 feet and frontage improvements, including a pedestrian walkway. The Applicant would also reconfigure the intersection of 194<sup>th</sup> Avenue SE and 193<sup>rd</sup> Place SE by moving this intersection further northeast to address traffic concerns, and improve a five-foot wide gravel path on the north side of 194<sup>th</sup> Avenue SE. The Applicant would provide safe pedestrian access for students to an Issaquah School District school bus stop at the intersection of 193<sup>rd</sup> Place SE and SE 48<sup>th</sup> Place. Transportation, fire, schools, park, general government, and police impact fees would be paid at the time of building-permit issuance. The proposed subdivision is located less than a mile from Lake Sammamish State Park, which provides diverse recreation opportunities. A condition is required to ensure that a home owners' association is established that would be responsible for maintenance of the stormwater facilities and the pedestrian walkway. Other conditions are necessary including those to ensure compliance with MDNS conditions; adequate provision for landscaping and tree protection measures, payment of impact fees, and arborist review of the gravel pedestrian access on the north side of 194<sup>th</sup> Avenue SE. *Finding 1, 3-19.*
2. **With conditions, the public use and interest would be served by the proposed preliminary plat.** The City provided adequate notice and opportunity to comment on the request. The City reviewed the proposed plat and issued a MDNS, with conditions to mitigate potential significant adverse impacts. The Applicant investigated reports of eagle nests and pileated woodpeckers. The Applicant's Habitat Assessment Report did not identify any nests on site. Public services, including water and sewer, are available. The site is surrounded by single-family residences. Conditions are necessary including those to ensure compliance with MDNS conditions; adequate provision for landscaping and tree protection measures; payment of impact fees; and arborist review of the gravel pedestrian access on the north side of 194<sup>th</sup> Avenue SE. *Findings 1-19.*

### **DECISION**

Based on the preceding Findings and Conclusions, the request for a preliminary short plat to subdivide 41,270 square feet into six residential lots at approximately 486X 194<sup>th</sup> Avenue SE is

**APPROVED**, subject to the following conditions:<sup>9</sup>

SEPA Mitigation Measures

1. The current configuration of the intersection of 194<sup>th</sup> Avenue SE and 193<sup>rd</sup> Place SE has operational and safety issues and is in close proximity to the intersection with West Lake Sammamish Parkway SE. The applicant proposes to reconfigure and improve the intersection of 194<sup>th</sup> Ave SE and 193<sup>rd</sup> Ave SE and to move this intersection further northeast, away from the intersection with West Lake Sammamish Parkway SE. Details of the intersection improvement shall be reviewed and approved by the Development Services Department, prior to recording the preliminary plat.
2. The applicant shall mitigate for potential impacts on public services and bicycle and pedestrian facilities. The City may approve a voluntary payment in lieu of other mitigation. The current mitigation fee is \$147.73/single family residence for general government, \$189.09/single family residence for the police mitigation fee, and \$776.85/single family residence for the bicycle/pedestrian mitigation fee. The mitigation fee will be assessed with issuance of building permits and the actual fee amount will be the adopted fee in effect at the time of permit issuance. Applicant objections to the voluntary payment should be made during the SEPA comment period.

Other Conditions

3. Approved tree protection measures shall be in place prior to any construction or clearing/grading activities. They shall be installed in conjunction with clearing and grading limits. Clearing, grading and storage of materials shall be outside the critical root zone of significant retained trees.
4. The consultant's arborist shall review the location and construction details for the gravel pedestrian access to be improved on the north side of 194<sup>th</sup> Avenue SE. The arborist shall be on-site to oversee the installation of the gravel path.
5. A final landscape plan is required. The street tree plant selection and landscape details shall be further reviewed with construction permits.
6. The preliminary plat's stormwater pipe and outfall into Lake Sammamish will require a Shoreline Substantial Development Permit (SSDP). The stormwater outfall will also require a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW). The SSDP and HPA shall be approved prior to issuance of construction permits.

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<sup>9</sup> These conditions designed to mitigate impacts of this proposed project as well as conditions required by City Code.

7. The Applicant shall apply for a Site Work Permit to construct the roads, utilities and grading of the lots. A final plat review will follow after subdivision infrastructure has been installed or bonded for prior to recording.
8. Building setbacks and a 50 percent impervious surface limit shall be met on each of the residential lots and this will be reviewed and verified with building permits.
9. Impact fees are required for each new single family residence. The following impact fees shall be required and the applicable cost calculated at the time of issuance of building permits for each residential unit: Transportation, Fire, Schools, Parks, General Government (SEPA), Police (SEPA), and Bicycle/Pedestrian Facilities (SEPA).
10. A home owners' association shall be established and shall be responsible for maintenance of the stormwater facilities and the pedestrian walkway.

Decided this 9<sup>th</sup> day of September 2016.

  
THEODORE PAUL HUNTER  
Hearing Examiner  
Sound Law Center